**International Law AC**

I affirm. Thihan Nyun[[1]](#footnote-1) explains the definition of economic sanctions commonly accepted in academic fields,

Economic sanctions can be defined, depending on the particular role one would like sanctions to play in international affairs, in two different ways. Economic sanctions can either encompass every measure designed to inflict economic deprivation or include only the most comprehensive of embargoes imposed for well-defined political reasons. A broad definition based solely on the ends would take into consideration only the economic deprivation inflicted upon a target country, and not the means employed to bring about that deprivation. As a result, any measure - economic or military - that disrupts the economic activity of an adversary would qualify as an economic sanction. Conversely, **a definition based on the means, which is commonly accepted today, narrows the scope of what constitutes economic sanctions by focusing only on trade-disrupting measures.** Hufbauer and colleagues define economic sanctions as "the deliberate, government-inspired withdrawal, or threat of withdrawal, of customary trade or financial relations." **A further synthesis of the literature reveals the following definition,** which will be used for this Article: **economic sanctions are the** actual or threatened **withdrawal of normal trade or financial relations, imposed** by the sender against the target, **for foreign policy purposes.** Under this approach, **economic sanctions are limited to restrictions on trade, investment, and other cross-border economic activity that reduce[s] the target country's revenues, thereby facilitating the desired change without resorting to military action.**

Prefer this definition for two reasons:

1. Nyun synthesizes the academic literature, and determines this to be the commonly accepted definition, meaning it is not an isolated decree from a single expert, but an academic norm.
2. The use of economic restrictions to make it physically impossible for a target to take some action, such as arms embargoes or non-punitive asset freezes, does not fit the ‘sanction’ component of the term ‘economic sanctions’ because sanctions, whether used in the international or domestic legal sense, are punishments rather than any coercive, preventative acts.

Moreover, even if this is not the preferable definition, its acceptance in academic literature proves reasonability. So, if the negative proves that an alternate definition is preferable, the fairest course of action is to evaluate the round using the new definition, but not punish me with a loss as I’m being reasonable. Prefer reasonable affirmative definitions absent real and significant abuse because changing definitions in the middle of the round dissolves the full 1AC strategy and 6 minutes of affirmative speech time which is a far greater loss to the affirmative than the use of a reasonable and non-abusive definition is to the negative.

Because the resolution asks whether an action is acceptable, I value **morality**. “Ought” implies moral obligation because what is “desirable” can only be determined when couched in some ethical system. There is no such thing as independent desirability because it begs the question of how we determine what is desirable. Morality is an ethical system revolving around the notion of rightness. Because individual moral claims can conflict, morality demands an arbiter of such claims. On a global level, the most impartial arbiter of conflicting claims is international law, because it codifies agreements taking the most opinions into account, embodying mutually agreed upon norms.

Thus, the criterion is **refraining from violating international law**.

Prefer this standard for three additional reasons:

1. International law is the closest thing to a universal moral standard as it has been elevated to a level of global concern. Thus, compliance with international law is the best determiner or whether an action meets a generalized ethical principle, such as morality.
2. An honored system of international law is necessary to create predictable rules within the international political system in a world were no nation can stand alone. Malcolm Shaw[[2]](#footnote-2) writes,

But **the raison d’etre of international law** and the determining factor in its composition **remains the needs and characteristics of the international political system. Where more than one entity exists within a system, there has to be some conception as to how to deal with other such entities**, whether it be on the basis of co-existence or hostility. **International law** as it has developed since the seventeenth century has adopted the same approach and **has in general** (though with notable exceptions) **eschewed the idea of permanent hostility and enmity. Because the state**, while internally supreme, **wishes to maintain its sovereignty externally and needs to cultivate other states in an increasingly interdependent world, it must acknowledge the rights of others. This acceptance of rights possessed by all states, something unavoidable in a world where none can stand alone, leads inevitably to a system to regulate and define such rights and**, of course, **obligations.**

1. Nations must refrain from violating international law in order to ensure that other nations comply. The power of international law lies not in physical enforcement, but in belief that other nations will abide by it. Thomas Franck[[3]](#footnote-3) writes,

This **belief in rule adherence is essential to the existence of an ongoing normative system of relations between sovereign states. It emanates from the value states place in law's ability to make interactions predictable. That faith in law’s ability to predict state behavior is the key to its ability to pull nations toward voluntary compliance.**And this is true of all law, not just the laws of nations. **The real power of law to secure systematic compliance does not rest, primarily, on police enforcement**-not even in police states, surely not in ordinary societies, and **especially not in the society of nations- but, rather, on the general belief of those to whom the law is addressed that they have stake in the rule of law itself: that law is binding because it is the law.**

Finally, the only way to preserve rights under international law is to refrain from violating such rights, even if this results in more violations in the end state of affairs. Frances Kamm[[4]](#footnote-4) writes,

Suppose that **[If] there** was **[were] no constraint and it [were]** was **permissible to minimize the violation of persons' rights not to be harmed**-whatever the complex structure of this right is-**by causing a lesser number of comparable violations. This would be incompatible with as high a degree of inviolability of persons, since we may,** after all, **harm one** to save others-at least from rights violations if not from a mere drop in welfare**.** Suppose, **by contrast,** that **[if] there is a constraint. Then each person who is harmed** and has his rights violated **because we abide by a constraint rather than minimize violations** of rights **nevertheless has the status of a more inviolable person, to whom harm is morally prohibited. If morality permitted minimizing violations** of persons **by violating other persons, then each of those saved as well as those persons used** to save others **would be less inviolable. It is the permission, not any actual violation of persons, that makes this so. [Even] If more violations of constraints actually occur because violations are not permitted, this does not mean that morality endorses the correctness of these harmings**. More people are harmed, and so the chances of each of us of being harmed may well be greater; but the conception of each person that is morally endorsed involves a high degree of inviolability. We may all lead harder lives, but our dignity is greater. We may actually prefer this trade-off, although that need not be the ground of its being correct. What makes it correct and what makes us as inviolable as we in fact are? It is simply certain properties that we have as individuals. (I mean to emphasize "as individuals," quite independent of any relations we are, or are not, part of. It is the proper-ties we have as individuals that necessitate people's relating to us in certain ways and not in others.)

My thesis and sole contention is that economic sanctions violate international law.

Human rights documents suggest that economic sanctions violate fundamental international legal principles. August Reinisch[[5]](#footnote-5) writes,

**Several specific human rights guarantees contained in various human rights documents are** also **relevant to assessing the legality of economic sanctions, among them the right to life; the right to an adequate standard of living, including food, clothing, housing, and medical care; freedom from hunger; and the right to health.** n83 [\*862] The scope of the right to life, which is included in both the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (Civil and Political Covenant), n84 can be interpreted as limited to prohibiting arbitrary deprivation of life through execution, disappearance, or torture, or more broadly as even requiring states to take positive measures. n85 In the latter instance **one might find that the right to life has been violated by a failure to prevent deprivation of life as a result of the lack of necessities such as food and basic health and medical supplies**. n86 In this case it is probably the broad interpretation as regards the precise content of the right to life that may be debatable, whereas its obligatory nature--whether because it forms part of customary international law or general principles--appears less controversial. The reverse may well apply to the more pertinent right to food, which--though also included in the Universal Declaration--is specified in the International Covenant on Economic, Social and Cultural Rights (Economic and Social Covenant). n87 There is no consensus that the contents of this Covenant, as well as the economic rights contained in the Universal Declaration, can be considered to represent established customary law or general principles. n88 However, **a contextual analysis of the relevance of Article 55 of the UN Charter** n89 **could reasonably lead to the view that the Organization's obligation to promote "higher standards of living," "solutions of international economic, social, health, and related problems," and "universal respect for, and observance of, human rights" has been "authoritatively interpreted"** n90 **by the Universal Declaration, the Economic and Social Covenant, and the committee that administers that Covenant. The right to food and freedom from hunger**--even if it is not interpreted as containing a positive obligation to provide essential foodstuffs to those in need--**could be viewed at least to require abstention from deliberately depriving individuals of food and causing hunger and starvation.** n91 **If the Security Council takes action that deprives a significant part of a state's population of the means of effectively enjoying the right to food as contained in the Universal Declaration** [\*863] **and the Economic and Social Covenant, the Council may be considered to be contravening Article 55 of its own Charter.**

The evidence is overwhelming – even certain UN organs know that unilateral and multilateral sanctions are illegal. Reinisch 2 writes,

This increasing degree of critical self-awareness of the United Nations has itself resulted from an interesting political process. At first, **the General Assembly took the lead in passing resolutions questioning unilateral economic sanctions** n15 **such as the** United States-imposed [\*853] **Cuba embargo**, n16 and in particular their extraterritorial effects; meanwhile, however, **various UN bodies have become rather outspoken in criticizing multilateral sanctions imposed by the Security Council**. n17 This trend culminated most recently in **a working paper prepared for the Sub-Commission on the Promotion and Protection of Human Rights** that **qualified the UN sanctions regime against Iraq as "unequivocally illegal under existing international humanitarian law and human rights law.**" n18 **Such findings are based not only on a factual assessment of the sanctions, but also on the legal requirement that the Security Council is bound to comply with international humanitarian law and human rights law.** This latter aspect is at least implicitly assumed, and sometimes even more or less explicitly suggested, in the above-mentioned reports. Together with the concomitant issue of the possibility of remedies for individuals hurt by such sanctions, the question of the Council's legal obligation forms the central issue of this discussion. At the same time, it should be noted that the debate about the human rights conformity of Security Council sanctions is not an isolated incident of public criticism of UN action but, rather, an important aspect of a broader and increasingly important debate on the accountability of international organizations.

Further, economic sanctions do not account for international law standards of proportionality and discrimination. Reisman and Stevick[[6]](#footnote-6) write,

As these foregoing case studies demonstrate, **a striking feature of the economic sanctions programmes and arms embargoes implemented by the United Nations** under Chapter VII of the Charter **is the Security Council's almost complete failure to consider international law standards, particularly the criteria of proportionality and discrimination, in defining and enforcing sanctions regimes.** In only two cases, those of Iraq and Haiti, has the Council expressly acknowledged that the impact of economic sanctions on the population of the target state has a role to play in policy formation. **While the oil-for-food arrangement was adopted in response to the deteriorating humanitarian situation in Iraq, there is no evidence that the Security Council's decision was guided by anything more than a superficial reference to international law standards.** Moreover, **in the case of Haiti**, while the Council did formally recognize the devastating impact that the sanctions were having on the poor, **instead of grappling with the legal issues raised by the sanctions programme, Council members in their public statements simplistically attempted to shift responsibility for their effects to the Haitian military.**244

Thus, economic sanctions are a clear violation of international law and supposed solutions are merely superficial.

And, sanctions cannot simply be made “smarter” to avoid these problems. Such sanctions are far too difficult to design. Richard Haass[[7]](#footnote-7) writes,

Smart or “designer” sanctions are at best a partial solution. It is possible that Haiti’s military leaders were bothered by the fact their families could no longer shop in Florida. And clearly executives who risk being denied access to the United States under the provision of Helms-Burton legislation think twice before entering into proscribed business deals. Sanctions aimed at firms similarly can affect their calculations. **The problem is that the opportunities to employ sanctions effectively yet with great precision are rare. Gathering the necessary knowledge about assets and then moving quickly enough to freeze them often proves impossible. Leaders and governments have many ways to insulate themselves. Especially when the target is an authoritarian state run by a relatively few individuals, designing sanctions that can meaningfully penalize leaders but spare the general population is extraordinarily difficult.**

This is empirically confirmed. All sanctions violate international humanitarian law. Daniel Drezner[[8]](#footnote-8) writes,

Unfortunately**, even if the implementers of smart sanctions become more sophisticated, smart sanctions are still likely to be a** noble **failure.** The contributors to Smart Sanctions acknowledge some of the reasons for this, but not all. For example, **the case studies show that smart sanctions still impose significant costs on a target state’s populace.** Michael Brzoska notes that **an arms embargo increases the costs of weapons procurement, leading ‘‘to a major shift in government spending priorities and a consequent reduction in the economic well-being of the general population in the targeted state**’’ (p. 126). De Vries acknowledges that ‘‘**financial sanctions probably caused the greatest negative impact on non-targeted sectors of Serbian society,’’ with the sanctions triggering severe stagflation in the Yugoslav economy** (p. 102). **The flight ban also imposed greater costs on the Yugoslav opposition than on the Milosevic regime, leading the European Union to reverse course. Moreover, travel sanctions can disrupt the shipment of food and coldstorage medicine to war-torn societies. In short, all sanctions impose costs on innocents.**

And, even if economic sanctions did not violate international law, they cause extreme human suffering. Laura Sjoberg[[9]](#footnote-9) writes,

Sanctions have succeeded in wreaking large amounts of economic devastation. This economic devastation has caused social problems in many **sanctioned** nations. The documentation about a lack of health supplies and food supplies in Cuba, The Democratic People’s Republic of **Korea, Iran, Iraq, Syria, and Libya** is not in short supply. The sanctions against Iraq, according to Covert Action Quarterly, “completely severed Iraq’s links to the rest of the world.”62 Iraq’s GDP has decreased ninety percent since the beginning of the sanctions regime, and even then the Iraqi economy was suffering from fighting a war. In addition to their economic problems, Iraqi people have been dealing with unprecedented shortages of essential materials to eat, feed their children, and deter disease. Geoff Simons describes the result of the sanctions as genocide. He argues, “What the West has done and continues to do to the children of Iraq is one of the genocidal crimes of the century**.** Many of us were first alerted to what was being perpetrated when the Harvard study team reported in 1991 that ‘at least 170 000 young children under five years of age will die in the coming year’ as a result of the war and the sanctions.”63 Ten years later, **[As of 2000,] Iraq** has**[had] lost an estimated two million people as a direct result of** the **sanctions** on Iraq.

Finally, sanctions empower autocratic leaders. Tim Niblock[[10]](#footnote-10) explains.

Second, **economic sanctions have tended to strengthen regimes.** The assumption that sanctions will help the population by opening opportunities for civilian forces to overthrow an oppressive and undemocratic regime, therefore, is unjustified. There are three processes through which such strengthening can occur. **First,** the impact of the **sanctions** tends to **make populations even more dependent on the government, mainly for provision of the basic rations needed for survival. The rationing system becomes an effective instrument for control. This has happened in both Iraq and Libya. Second,** sanctions may strengthen a regime’s ideological legitimacy. **If the regime has projected itself** to its population **through an ideology built around nationalism – where external powers** (especially Western powers**) are seen as imperialist crusaders** intent on undermining local sovereignty and indigenous interests – **then the imposition of** Western-orchestrated UN **sanctions will reinforce the regime’s** central ideological **message.** The regime’s analysis of the international order will carry conviction. The Iraqi, Libyan, and Sudanese regimes have all purveyed, from their inceptions, a nationalistic ideology. The imposition of **sanctions, therefore**, can be and **ha[ve] s been used by those regimes to buttress popular acceptance of the core ideology and to mobilize popular support.** Third, the regime can gain some credit domestically by deftly defending the country from an external onslaught (as perceived by the population). Its ability to maneuver successfully to build support in the international community, to withstand and circumvent a blockade, to bring in the basic goods needed by the population, and perhaps to throw doubt on the legality of what is being done to the country, can all strengthen popular support. This factor has been evident in both Iraq and Libya. Overall, the strengthening of regimes that are cavalier in their treatment of human rights is not conducive either to regional or to international stability.

Thus, because economic sanctions violate international law and achieve no positive end, I affirm.

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2. Malcolm Nathan Shaw [Professor of International Law at the University of Leicester]. *International Law*. Cambridge University Press, 2003. Pg. 43. [↑](#footnote-ref-2)
3. Thomas Franck [Professor of Law Emeritus at the New York University School of Law]. “The Power of Legitimacy and the Legitimacy of Power: International Law in an Age of Power Disequilibrium.” The American Journal of International Law, Vol. 100, No. 1, (Jan., 2006). P. 91. [↑](#footnote-ref-3)
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5. August Reinisch [Professor of Public International and European Community Law, University of Vienna]. “Developing Human Rights and Humanitarian Law Accountability of the Security Council for the Imposition of Economic Sanctions.” The American Journal of International Law. October, 2001. [↑](#footnote-ref-5)
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8. Daniel W. Drezner [Professor in the Department of Political Science at the University of Chicago]. “How Smart are Smart Sanctions?” Review of Smart Sanctions: Targeting Economic Statecraft by George Lopez and David Cortright. International Studies Review (2003) 5, 107–110. [↑](#footnote-ref-8)
9. Laura Sjoberg [Assistant Professor of Political Science and affiliate faculty in Women's Studies at the University of Florida; holds a research fellowship with the Women and Public Policy Program at the Kennedy School of Government at Harvard University]. “Towards a Feminist Theory of Sanctions.” Thesis – University of Chicago. p/ http://www.laurasjoberg.com/BA.pdf //bcm. 2000. [↑](#footnote-ref-9)
10. Niblock, Tim. 2001 [Professor of Arab Gulf Studies at the University of Exeter. BA in PPE (Oxon), Cert. des Hautes Etudes Europeenes (Bruges), PhD in Internat. Relations (Sussex)]*“Pariah States” & Sanctions in the Middle East: Iraq, Libya, Sudan.* Lynne Rienner Publishers. Boulder, London. [↑](#footnote-ref-10)